

2. EXCESS CLAIM FEES

	<u>Extra Claims</u>	<u>Fee from below</u>	<u>Fees Paid (\$)</u>
Total Claims _____ - 20 or HP = _____		X _____	= _____
HP = highest number of total claims paid for, if greater than 20			
Independent Claims _____ - 3 or HP = _____		X _____	= _____
HP = highest number of independent claims paid for, if greater than 3			
Multiple Dependent Claims		_____	= _____

<u>Large Entity</u>		<u>Small Entity</u>		<u>Fee Description</u>
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	50	2202	25	Each claim over 20
1201	200	2201	100	Each independent claim over 3
1203	360	2203	180	Multiple dependent claims, if not paid
1204	200	2204	100	Reissue: each claim over 20 and more than in the original patent
1205	50	2205	25	Reissue: each independent claim more than in the original patent

SUBTOTAL (2) \$ 0**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each add'l 50 or fraction thereof</u>	<u>Fee from below</u>	<u>Fees paid (\$)</u>
_____	- 100 = _____	/ 50 = _____ (round up to whole number)	X _____	_____

<u>Large Entity</u>		<u>Small Entity</u>		<u>Fee Description: Application size fee for each additional group of 50 sheets beyond initial 100 sheets (count spec & drawings except sequences & program listings):</u>
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1081	250	2081	125	Utility
1082	250	2082	125	Design
1083	250	2083	125	Plant
1084	250	2084	125	Reissue

SUBTOTAL (3) \$ 0

FEE CALCULATION (continued)**4. OTHER FEE(S)**

				<u>Fees Paid (\$)</u>	
Non-English Specification, \$130 fee (no small entity discount)					
<u>Large Entity</u>		<u>Small Entity</u>			
Fee	Fee	Fee	Fee		
Code	(\$)	Code	(\$)	<u>Fee Description</u>	
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1813	8,800	1813	8,800	Request for inter parties reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	120	2251	60	Extension for reply within first month	
1252	450	2252	225	Extension for reply within second month	
1253	1,020	2253	510	Extension for reply within third month	
1254	1,590	2254	795	Extension for reply within fourth month	
1255	2,160	2255	1,080	Extension for reply within fifth month	
1401	500	2401	250	Notice of Appeal	
1402	500	2402	250	Filing a brief in support of an appeal	<u>500.00</u>
1403	1,000	2403	500	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	500	2452	250	Petition to revive - unavoidable	
1453	1,500	2453	750	Petition to revive - unintentional	
1501	1,400	2501	700	Utility issue fee (or reissue)	
1502	800	2502	400	Design issue fee	
1503	1100	2503	550	Plant issue fee	
1462	400	1462	400	Petitions to the Commissioner (CFR 1.17(f) Group I)	
1463	200	1463	200	Petitions to the Commissioner (CFR 1.17(g) Group II)	
1464	130	1464	130	Petitions to the Commissioner (CFR 1.17(h) Group III)	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	790	2809	395	For filing a submission after final rejection (see 37 CFR 1.129(a))	
1814	130	2814	65	Statutory Disclaimer	
1810	790	2810	395	For each additional invention to be examined (see 37 CFR 1.129(b))	
1801	790	2801	395	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	
1504	300	1504	300	Publication fee for early, voluntary, or normal pub.	
1505	300	1505	300	Publication fee for republication	
1803	130	1803	130	Request for voluntary publication or republication	
1808	130	1808	130	Processing fee under 37 CFR 1.17(i) (except provisionals)	
1454	1,370	1454	1,370	Acceptance of unintentionally delayed claim for priority	
Other fee (specify) _____					
Other fee (specify) _____					
				SUBTOTAL (4) \$ 500.00	

*Reduced by Basic Filing Fee Paid

SUBMITTED BY:Typed or Printed Name: Eric S. ReplogleSignature: Date: Oct 11, 2005Reg. Number: 52,161Telephone Number: 408-720-8300

Send to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Atty Docket No. 006783.P011

3625
Patent



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:	) Examiner:	James H. Zurita
)	
John Rodriguez	) Art Unit:	3625
)	
Application No. 09/814,159	) Confirm. No:	2460
)	
Filed: March 20, 2001)	
)	
For: Media Asset Management System)	
)	

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

This is an appeal to the Board of Patent Appeals and Interferences from the decision of the Examiner of Group 3625, dated February 22, 2005, in which claims 1-43 in the above-identified application were finally rejected. This Appeal Brief is hereby submitted pursuant to 37 C.F.R. § 41.37(a).

I. REAL PARTY IN INTEREST

The real party in interest is the assignee of the full interest in the invention, LightSurf Technologies, Inc., a subsidiary of Verisign, Inc, 110 Cooper Street, 4th Floor, Santa Cruz, CA 95060.

II. RELATED APPEALS AND INTERFERENCES

To the best of Appellant's knowledge, there are no appeals or interferences related to the present appeal that will directly affect, be directly affected by, or have a bearing on the Board's decision in the instant appeal.

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III. STATUS OF THE CLAIMS

Claims 1-43 are pending in the application and were finally rejected in an Office Action mailed March 21, 2005. Claims 44-50 were canceled due to a restriction requirement. Thus, claims 1-43 are the subject of this appeal. A copy of Claims 1-43 as they stand on appeal are set forth in Appendix A.

IV. STATUS OF AMENDMENTS

No amendments to the claims have been made after receipt of the Final Office Action.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Appellants' invention as claimed in claims 1-43 is directed to tracking information, at a media gateway, that characterizes a particular media asset. [Specification: Page 20, Lines 6-8] The media gateway captures a plurality of media assets uploaded from a plurality of devices. [Specification: Page 18, Lines 5-7] The media gateway additionally tracks information about the user session, user information, the time when the media assets were uploaded, and the number of media assets uploaded. [Specification: Page 20, Lines 6-8]. Each asset uploaded to the media gateway is recorded as a transaction. [Specification: Page 45, Lines 13-14] The media gateway transfers the media assets to a media vault. [Specification: Page 20, Lines 8-9] Furthermore, a request is received to engage one or more service providers to perform one or more services for the media asset. [Specification: Page 17, Lines 6-14] In addition, transaction information is tracked so as to allow billing of the requested service. [Specification: Page 45, Lines 15-18]

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

I. Claims 1-4, 6-25, and 27-43 stand rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 5,982,900 to Ginter et al. in view of alleged knowledge in the art.

II. Claims 5 and 26 stand rejected under 35 U.S.C. § 103(a) over Ginter et al. in view of U.S. Patent No. 6,657,702 to Chui et al.

VII. ARGUMENTS

I. Claims 1-4, 6-25, and 27-43 are Patentable under 35 U.S.C. § 103(a) over Ginter et al. in view of alleged knowledge in the art.

Ginter discloses methods and systems for digital rights management using secure subsystems. The secure subsystems provide a virtual distribution environment (VDE) that enforces a secure chain of handling and control across a network (Ginter, column 9, lines 19-32). An operating system on a device that implements VDE function has a “Rights Operating System” (ROS) (Ginter, column 18, lines 30-32). A component of the ROS is a gateway that translates remote procedure calls (RPC) into object switch calls and visa versa (Ginter, Figure 12, item 734; column 98, lines 56-60). The gateway described by Ginter enables the RPC manager to communicate with an element of the ROS that have an object switch interface (Ginter, column 98, lines 56-60).

Furthermore, to support his rejection, the Examiner relied on an interpretation of Ginter that went beyond the literal teaching of Ginter. The Examiner suggested that Ginter and alleged knowledge in the art discloses a “gateway”. Ginter discloses multiple networks connected to Ginter’s information utility (Ginter, Figure 1). This, according to the Examiner, inherently discloses a gateway (Final Office Action, page 3). The Examiner defines a “gateway” as “a device that connects networks using different communication protocols so that information can be passed from one to the other” in the Final Office Action.

A. Claims 1-4, 6-25, and 27-43

Claims 1-4, 6-25, and 27-43 stand or fall together. Claim 1 is the representative claim. The invention claimed in claim 1 requires “... tracking information, at a media gateway, characterizing a particular media asset of interest that is uploaded to the media gateway associated with the data network, wherein the media gateway captures a plurality of media assets uploaded from a plurality of devices”.

Appellants respectfully submit that Ginter does not teach or suggest each and every element of claim 1. As supported in Appellants’ specification, Appellants define a

“media gateway” and “media gateway module” as is a device that “captures a plurality of media assets uploaded from a plurality of devices” and adds “tracking information, at [the] media gateway, characterizing a media asset”. Appellants’ media gateway is supported in the specification, for example at p. 5, lines 11-12 and p. 20, lines 4-8.

Appellants respectfully submit that the Examiner fails to use Appellants’ own definition for the term “media gateway.” It is well known that “[a]n Applicant is entitled to be his or her own lexicographer and may rebut the presumption that claim terms are given their ordinary and customary meaning by clearly setting forth a definition of the term that is different from its ordinary and customary meanings(s).” MPEP §2111.02, p. 2100-50. The patentee’s ability to be his own lexicographer is further supported by case law (“... [the] specification may reveal a special definition given to a claim term by the patentee that differs from the meaning it would otherwise possess. In such cases, the inventor’s lexicography governs.” *Phillips v. AWH Corp.*, 2005 U.S. App. LEXIS 13954, *33-*34). It is respectfully submitted that Appellants clearly define a media gateway in the present application, pursuant to MPEP §2111.02, as a device that “captur[es] wireless and wireline uploads ... arriving from various devices” (Appellants’ specification, p. 5, lines 11-12) and tracks information about the user session (e.g., user information, time of day photos were uploaded, how many photos uploaded, etc.; Appellants’ specification, p. 20, lines 6-9). Further description of Appellants’ media gateway is found in the U.S. Patent Application, Serial No. 09/759,108, incorporated by reference (see Appellants’ specification at p. 19, lines 23-25). Therefore, Appellants respectfully submit that Appellants have clearly set forth the definition of the term “media gateway” as it is claimed in the present application. Appellants made this same argument to the Examiner in a Response to an Office Action (Response filed April 22, 2005, page 12).

The Examiner has disregarded Appellants’ definition of “media gateway”, and instead insists on defining Appellants’ “media gateway” as a general purpose “gateway” that “connects networks using different communication protocols so that information can be passed from one to another.” (Final Office Action, mailed February 22, 2005, p. 15, lines 4-6).

It is respectfully submitted that the Examiner erred by disregarding Appellants' own definition of a "media gateway", and compounded this error by using a definition that does not encompass Appellants' definition. Appellants' media gateway as described and claimed in the present application tracks information about a media asset and captures uploads from various devices. The Examiner's interpretation of the term gateway merely passes information from one network to another without tracking the information characterizing a media asset of interest as claimed. Thus, the Examiner's substituted definition actually teaches away from Appellants' intended special definition of "media gateway". Therefore, Appellants respectfully submit that the Examiner has incorrectly interpreted the term "media gateway" as used in Appellants' application, and this interpretation was the basis of an improper rejection.

Appellants respectfully further submit that the term "media gateway" should not be given a meaning that is not intended and expressly provided by Appellants, and that the Examiner should in fact use Appellants' definition of "media gateway" in interpreting the scope of the claims.

Even if Appellants were to try to apply the Examiner's view of a "gateway", it would be difficult in view of the fact the Examiner himself has been inconsistent in his use of the term "gateway", from office action to office action. For example, the term "gateway" is explicitly used by Ginter to "enable the RPC manager to communicate with an element of the ROS that have an object switch interface." (Ginter, column 98, lines 56-60). In the August 14, 2004 Office Action, the Examiner used this "gateway" definition to reject Appellants' claims. In contrast, in the final Office Action dated February 22, 2005, the Examiner suggests a different meaning of gateway that is inherent in the network disclosed by Ginter (Ginter, Figure 1). Because of the vague use of the term "gateway" demonstrated in the prior art, Appellant respectfully suggests that one of skill in the art would not readily recognize the term "gateway" as either of the definitions suggested by the Examiner. Instead, one of skill in the art would rather look to the Appellants' specification to determine how to properly interpret the term "media gateway" and its meaning within the application in order to practice the invention taught.

Accordingly, Appellants respectfully request that Examiner use Appellants' definition of "media gateway" when interpreting Appellants' claims 1-43.

Furthermore, because there is no disclosure in Ginter that teaches or suggests a media gateway as claimed, Appellants respectfully submit that claim 1 is not obvious over Ginter. Therefore, Appellants respectfully request that the Examiner remove the rejection of claims 1-4, 6-25, and 27-43 as being obvious over Ginter in view of alleged knowledge in the art.

II. Claims 5 and 26 are Patentable under 35 U.S.C. § 103(a) over Ginter et al in view of Chui et al.

Chui discloses encoding a recipient identifier in a photographic image where the identifier is used when re-ordering photographic prints. Furthermore, additional printing parameters are encoded in the photographic image.

A. Claims 5 and 26

Claims 5 and 26 stand or fall together. Claim 5 is the representative claim. Claim 5 depends on claim 1 and further defines “media assets [to] include digital images, and ... service providers include a service provider providing photofinishing services”.

Appellants respectfully submit that the combination of Ginter and Chui does not teach or suggest each and every limitation of Appellants’ invention as claimed in claim 5. As noted above, claim 5 depends from claim 1, and claim 1 recites “... tracking information, at a media gateway, characterizing a particular media asset of interest ... wherein the media gateway captures a plurality of media assets uploaded from a plurality of devices”

While Chui discloses encoding an identifier in an image for re-ordering image prints, Chui does not teach or suggest a media gateway as claimed. Therefore, neither Ginter nor Chui teach or suggest this element as claimed.

Because the combination cannot be interpreted as disclosing the claimed element, the combination cannot render obvious Appellants’ invention as claimed. Accordingly, Appellants respectfully request the withdrawal of the rejection of claims 5 and 26 under 35 U.S.C. § 103(a) over the combination.

VIII. CONCLUSION

Ginter does not render obvious Appellants' invention as claimed in claim 1-4, 6-25, and 27-43. In addition, the combination of Ginter and Chui does not teach each and every limitation of Appellants' invention as claimed in claims 5 and 26. Accordingly, Appellants respectfully request the Board reverse the rejections of Claims 1-43 under 35 U.S.C. § 103(a) and direct the Examiner to enter a Notice of Allowance for Claims 1-43.

Fee for Filing a Brief in Support of Appeal

Enclosed is a check in the amount of \$500.00 to cover the fee for filing a brief in support of an appeal as required under 37 C.F.R. §§ 1.17(c) and 41.37(a).

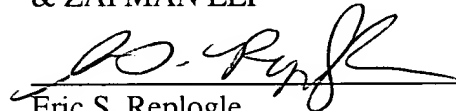
Deposit Account Authorization

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Appellant hereby requests such extension.

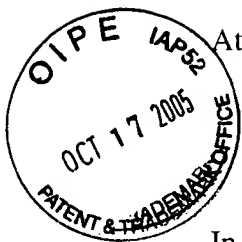
Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR
& ZAFMAN LLP

Dated: Oct. 11, 2005


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Atty Docket No. 006783.P011

Patent

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:	)	Examiner:	James H. Zurita
)		
John Rodriguez	)	Art Unit:	3625
)		
Application No. 09/814,159)	Confirm. No:	2460
)		
Filed: March 20, 2001)		
)		
For: Media Asset Management System)		
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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**APPENDIX A FOR
APPELLANT'S BRIEF UNDER 37 C.F.R. 41.37(a)**

1. (Previously Presented) A method for tracking transactions involving media assets on a data network, said data network being serviced by one or more service providers, the method comprising:

tracking information, at a media gateway, characterizing a particular media asset of interest that is uploaded to the media gateway associated with the data network, wherein the media gateway captures a plurality of media assets uploaded from a plurality of devices;

receiving a request to engage one or more of said service providers to perform one or more services for the particular media asset; and

tracking transaction information allowing billing of the requested services, wherein the transaction information includes information indicating which of the service providers performed a service for the particular media asset.

2. (Original) The method of claim 1, wherein said media assets include selected ones of digital images, audio, video, and text-based media.

3. (Original) The method of claim 1, wherein said service providers include a wireless carrier.

4. (Original) The method of claim 1, wherein said service providers include an online e-commerce partner providing services in conjunction with processing various media assets.

5. (Original) The method of claim 1, wherein said media assets include digital images, and wherein said service providers include a service provider providing photofinishing services.

6. (Previously Presented) The method of claim 1, wherein said data network includes connectivity to the Internet.

7. (Original) The method of claim 1, wherein said service providers include an Internet service provider.

8. (Original) The method of claim 1, wherein said request comprises an e-commerce transaction that requires services provided by multiple service providers, and wherein said transaction information allowing billing of the requested services tracks revenue sharing among the multiple service providers for servicing the e-commerce transaction.

9. (Original) The method of claim 8, wherein said transaction information allowing billing of the requested services additionally tracks expense sharing among the multiple service providers for servicing the e-commerce transaction.

10. (Previously Presented) The method of claim 41, wherein said step of tracking information characterizing a particular media asset of interest includes:

tracking information uniquely identifying the asset within the data network, information specifying characteristics of the asset, and information identifying a particular user who uploaded the asset.

11. (Original) The method of claim 10, wherein said report provides billing information based on characteristics of the particular asset.

12. (Original) The method of claim 11, wherein said report provides billing information based on the particular asset's size.

13. (Original) The method of claim 11, wherein said report provides billing information based on the particular asset's media type.

14. (Previously Presented) The method of claim 1, wherein said request is received from a user other than the user who uploaded the particular asset to the data network.

15. (Previously Presented) The method of claim 14, further comprising:

receiving input indicating that the particular media asset may be shared with other particular users on the data network;

receiving a request from one of the other particular users to engage one or more of said service providers to perform one or more services for the particular media asset; and

wherein said step of tracking transaction information allowing billing of the requested services, includes tracking transaction information allowing billing of the other particular user who requested the services.

16. (Previously Presented) The method of claim 1, wherein said step of tracking information characterizing a particular media asset of interest that is uploaded to the network includes:

uniquely identifying the particular media asset, so that it may be distinguished from all other media assets on the data network.

17. (Previously Presented) The method of claim 1, wherein said step of tracking information characterizing a particular media asset of interest that is uploaded to the data network includes:

uniquely identifying a particular device that the particular media asset was received from.

18. (Original) The method of claim 1, wherein said transactions that are tracked comprise e-commerce transactions carried out over the Internet.

19. (Previously Presented) The method of claim 1, wherein said particular media asset is uploaded to the data network using wireless communication.

20. (Previously Presented) The method of claim 1, wherein said particular media asset is uploaded to the data network using wireline communication.

21. (Original) The method claim 1, wherein said transaction information allowing billing of the requested services includes information about credits and/or debits posted to accounts of the service providers that were engaged.

22. (Previously Presented) A system for tracking and managing media assets on a data network, said data network being serviced by one or more service providers, the system comprising:

a media gateway module for capturing uploading of a particular media asset of interest that is uploaded to the data network, wherein the media gateway module receives a plurality of media assets uploaded from a plurality of devices;

a module for tracking information at the media gateway, wherein the tracking information module tracks information characterizing the particular media asset;

a module for processing a request to engage one or more of said service providers to perform one or more services for the particular media asset; and

a module for tracking transaction information pertaining to billing of the requested services, wherein said transaction information includes information indicating which service providers performed a service for the particular media asset.

23. (Original) The system of claim 22, wherein said media assets include selected ones of digital images, audio, video, and text-based media.

24. (Original) The system of claim 22, wherein said service providers include a wireless carrier.

25. (Original) The system of claim 22, wherein said service providers include an online e-commerce partner providing services in conjunction with processing various media assets.

26. (Original) The system of claim 22, wherein said media assets include digital images, and wherein said service providers include a service provider providing photofinishing services.

27. (Previously Presented) The system of claim 22, wherein said data network includes connectivity to the Internet.

28. (Original) The system of claim 22, wherein said service providers include an Internet service provider.

29. (Original) The system of claim 22, wherein said request comprises an e-commerce transaction that requires services provided by multiple service providers, and wherein said transaction information allowing billing of the requested services tracks revenue sharing among the multiple service providers for servicing the e-commerce transaction.

30. (Original) The system of claim 29, wherein said transaction information allowing billing of the requested services additionally tracks expense sharing among the multiple service providers for servicing the e-commerce transaction.

31. (Original) The system of claim 22, wherein said system tracks information characterizing a type for the particular media asset of interest.

32. (Previously Presented) The system claim 31, wherein said system tracks a unique identifier for uniquely identifying the particular asset across the entire data network.

33. (Previously Presented) The system of claim 42, wherein said report generation module provides billing information based on characteristics of the particular asset.

34. (Previously Presented) The system of claim 42, wherein said report generation module provides billing information based on the particular asset's size.

35. (Previously Presented) The system of claim 42, wherein said report generation module provides billing information based on the particular asset's media type.

36. (Previously Presented) The system of claim 42, further comprising:

a sharing module for receiving input indicating that the particular media asset may be shared with other particular users on the network.

37. (Original) The system of claim 36, wherein said module for processing a request may process a request from a user that the particular asset is being shared with; and

wherein said report generation module allows billing of services to said user who the particular asset is being shared with.

38. (Original) The system of claim 22, wherein said system tracks information characterizing the particular media asset of interest, including uniquely identifying a particular device that the particular media asset was received from.

39. (Original) The system of claim 22, wherein said transactions that are tracked comprise e-commerce transactions carried out over the Internet.

40. (Previously Presented) The system of claim 22, wherein said particular media asset is uploaded to the data network using wireless communication.

41. (Previously Presented) The method of claim 1, wherein said method further comprises:

generating a report indicating a provider's billing information in connection with providing services for the various media assets present on the data network.

42. (Previously Presented) The system of claim 22, wherein the system further comprises:

a report generation module for indicating a provider's billing information in connection with providing services for the various media assets present on the data network.

43. (Previously Presented) The method claim 22, wherein said transaction information allowing billing of the requested services includes information about credits and/or debits posted to accounts of the service providers that were engaged.

44-50. (Cancelled)